

filed at one time back in March of 2012. That maneuver, of course, was a transparent effort to manufacture a crisis where no crisis existed. Every single one of these cloture motions was later withdrawn. As a result, not 1 of those 17 nominees even had a cloture vote, let alone a failed cloture vote.

In fact, of these 20 so-called filibusters of district court judges, the Senate held only 1 cloture vote on a district court judge, and that cloture vote passed the Senate. Yet the Senate majority still claims we filibustered 20 district court nominees. That is revisionist history if I have ever seen it.

Let's review the alleged Republican obstruction of the President's nominees. Since President Obama took office, the Senate has approved 218 of the President's lower court judicial nominees. That is 99 percent. So we have rejected only two. If the majority leader hadn't invoked the nuclear option, the number would have, in fact, been 5 instead of 2, but not 20, and not 34, as I have heard some claim. It would not have even been 10, which was the number the Senate majority blocked by the fifth year of President Bush's administration. Five nominees.

At the end of the day, the majority was willing to toss aside two centuries of Senate practice and tradition over just five judicial nominees. So I continue to oppose this nominee, just as I did when the Senate rejected the nomination before the Senate Democrats broke the rules to change the rules.

This judgeship wasn't warranted before the majority leader and the Democrats invoked the misguided nuclear option, and it certainly hasn't suddenly become warranted in the weeks since that time.

I yield the floor.

Mr. REID. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we have a vote scheduled for 5:30; is that right?

The PRESIDING OFFICER. That is correct.

#### EXECUTIVE SESSION

#### NOMINATION OF ROBERT LEON WILKINS TO BE UNITED STATES CIRCUIT JUDGE FOR THE DISTRICT OF COLUMBIA CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The legislative clerk read the nomination of Robert Leon Wilkins, of the District of Columbia, to be United

States Circuit Judge for the District of Columbia Circuit.

The PRESIDING OFFICER. The majority leader.

#### UNEMPLOYMENT INSURANCE

Mr. REID. The Republican leader and I have had a number of conversations today about how we should proceed on unemployment insurance. I have had conversations and he has had conversations with a number of our Members, both Democrats and Republicans. Right now, because the vote is not scheduled until 5:30, it has been difficult for me, and I am quite certain for the Republican leader, to talk to all of the necessary people involved in trying to come to some conclusion as to how we should proceed on this legislation. Two of the people I met with today, everyone knows, are people who are trying to work something out, including Senator COLLINS and Senator HELLER. Senator HELLER is a cosponsor of the underlying bill and Senator COLLINS is always trying to make peace with everybody. They have made a proposal. I have an outline of their proposal and I appreciate their good work.

However, I can't automatically agree to it because it calls for 3 months rather than the 11 months or so we had in the underlying proposal that is before the Senate. As everyone knows, the President is not in favor of a 3-month proposal and I am not either, but that doesn't mean we can't work something out. I have made statements indicating I prefer a longer period in the proposal and so has the President.

However, my main point in saying a few words this afternoon is that we need to be able to meet with Senators—I need to meet with my caucus tomorrow before I can determine how I would suggest—along with the two Republican Senators I met with—how we will proceed on this matter.

Mr. MCCONNELL. Will the majority leader yield?

Mr. REID. Of course; I am happy to.

Mr. MCCONNELL. I would observe that what I am hoping for is an open amendment process. We have the amendment tree filled and it remains my hope that we will be able to, through these discussions we have had, get to something closer to what we have been accustomed to in the past with a relatively open amendment process. So under those circumstances, and in the hope that by tomorrow we end up with a more fair process, I am happy to go along with what the majority leader has suggested.

#### LEGISLATIVE SESSION

Mr. REID. I ask unanimous consent that we now proceed to legislative session, out of executive session. When I finish my remarks and the Republican leader finishes his remarks, I ask that we go back into executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—S. 1845

Mr. REID. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on amendment No. 2631 occur at 2:30 p.m. tomorrow; further, that the vote on the motion to invoke cloture on S. 1845 occur following the disposition of amendment No. 2631 or, if cloture is not invoked on amendment No. 2631, the Senate proceed immediately to the vote on the motion to invoke cloture on S. 1845.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, I hope this will allow us a way to move forward. We will do our best to move forward. I am trying the best I can to come up with an arrangement to move forward.

I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Senator from Maryland.

Mr. CARDIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION—Continued

The PRESIDING OFFICER. Under the previous order, the Senate will resume executive session.

The Senator from Maryland.

Mr. CARDIN. If I understand correctly, we are on the nomination of judge Robert Wilkins?

The PRESIDING OFFICER. The Senator is correct.

Mr. CARDIN. Mr. President, I rise in strong support of the nomination of Judge Robert L. Wilkins to be a circuit judge for the U.S. Court of Appeals for the District of Columbia Circuit. I was pleased to introduce Judge Wilkins to the Judiciary Committee in September and the committee favorably reported his nomination in October. He was filibustered in November, and I am pleased we are reconsidering his nomination today.

Judge Wilkins currently serves as a Federal District Judge in the U.S. District Court for the District of Columbia. So he is a district court judge today, confirmed by the Senate for a lifetime appointment, and now has been nominated by President Obama to fill the circuit court, which is the court above the judicial court for the District of Columbia.

I am happy we are going to get a chance to vote on the merits of this nominee.

Judge Wilkins is a native of Muncie, IN. He obtained his B.S. cum laude in chemical engineering from Rose-Hulman Institute of Technology and his J.D. from Harvard Law School.

Following graduation, Judge Wilkins clerked for The Honorable Earl B. Gilliam of the U.S. District Court for the Southern District of California. He later served as a staff attorney and as

head of special litigation for the Public Defender Service for the District of Columbia. He then practiced as a partner with Venable, specializing in white-collar defense, intellectual property, and complex civil litigation before taking the bench as a district court judge.

Besides Judge Wilkins' professional accomplishments as an attorney, he has also played a leading role as a plaintiff in a landmark civil rights case in Maryland involving racial profiling. During his tenure with the Public Defender Service and in private practice, Judge Wilkins served as the lead plaintiff in *Wilkins, et al. v. State of Maryland*, a civil rights lawsuit against the Maryland State Police for a traffic stop they conducted on Judge Wilkins and his family. Let me give some of the circumstances of what Judge Wilkins went through.

In 1992 Judge Wilkins attended his grandfather's funeral in Chicago and then began an all-night trip home with three of his family members. He was due back in Washington, DC, that coming morning for a court appearance as a public defender. A Maryland State Police trooper pulled over their car. The police detained the family and deployed a drug-sniffing dog to check the car, after Judge Wilkins declined to consent to a search of the car, stating there was no reasonable suspicion. The family stood in the rain during the search, which did not uncover any contraband.

Judge Wilkins later wrote:

It is hard to describe the frustration and pain you feel when people pressure you to be guilty for no good reason, and you know that you are innocent. . . . [W]e fit the profile to a tee. We were traveling on I-68, early in the morning, in a Virginia rental car. And, my cousin and I, the front seat passengers, were young black males. The only problem was that we were not dangerous, armed drug traffickers. It should not be suspicious to travel on the highway early in the morning in a Virginia rental car. And it should not be suspicious to be black.

After the traffic stop, Judge Wilkins began reviewing Maryland State Police data and noticed that while a majority of those searched on I-95 were Black, Blacks made up only a minority of the drivers traveling on the highway.

Judge Wilkins filed a civil rights lawsuit which resulted in two landmark settlements that were the first to require systematic compilation and publication by a police agency of data for all highway drug and weapons searches, including data recording the race of the motorist involved, the justification of the search and the outcome of the search. The settlements also required the State Police to hire an independent consultant, install video cameras in their vehicles, conduct internal investigations of all citizen complaints of racial profiling, and provide the Maryland NAACP with quarterly reports containing detailed information on the number, nature, location, and disposition of racial profiling complaints.

These settlements inspired a June 1999 Executive order by President Clin-

ton, congressional hearings, and legislation that has been enacted in over half of the 50 States.

This was a landmark case, and the settlement provided the wherewithal for many States to change their practices on traffic stops and how traffic stops would be conducted. It was an important action Judge Wilkins took as a private citizen in order to advance the rights of all people. I applaud him for that courage, not only to stand for what was right for him but also to be active in changing those practices around the country.

As my colleagues know, I have introduced S. 1038, the End Racial Profiling Act—ERPA—which would codify many of the practices now used by the Maryland State Police to root out the use of racial profiling by law enforcement. The Judiciary Committee held a hearing on ending the use of racial profiling last year, and I am hopeful that with the broader discussion on racial profiling generated by the tragic death of Trayvon Martin, we can come together and move forward on this legislation.

Judge Wilkins played a key role in the passage of the Federal statute establishing the National Museum of African American History and Culture Plan for Action Presidential Commission, and he served as the chairman of the Site and Building Committee of that Presidential Commission. The work of the Presidential Commission led to the passage of Public Law 108-184, which authorized the creation of the National Museum of African American History and Culture. This museum will be the newest addition to the Smithsonian and is scheduled to open in 2015 between the National Museum of American History and the Washington Monument on the National Mall.

I mention that because Judge Wilkins has been involved in our community. He is not only an outstanding jurist, he is a person who has stood for basic rights. He has taken action where things were wronged against him, and he has been very active in our community.

He also continues his pro bono work to this day. He currently serves as the court liaison to the Standing Committee on Pro Bono Legal Services of the Judicial Conference of the DC Circuit. He is committed to public service and equal justice.

As a U.S. district judge for the District of Columbia since 2011, Judge Wilkins has presided over hundreds of civil and criminal cases, including both jury and bench trials. Judge Wilkins already sits on a Federal bench which hears an unusual number of cases of national importance to the Federal Government, including complex election law, voting rights, environmental, securities, and administrative law cases.

Indeed, Judge Wilkins has been nominated for the appellate court that would directly hear appeals from the

court on which he currently sits. He understands the responsibilities of the court that he has been nominated to by President Obama.

The American Bar Association gave Judge Wilkins a rating of unanimously "well qualified" to serve as a Federal appellate judge, which is the highest possible rating from the nonpartisan peer review.

The U.S. Court of Appeals for the District of Columbia Circuit is also referred to as the Nation's second highest court. The Supreme Court only accepts a handful of cases each year, so the DC Circuit often has the last word and proclaims the final law of the land in a range of critical areas of the law because many of these cases are brought to the DC Circuit.

This court handles unusually complex cases in the area of administrative law, including revealing decisions and rulemaking of many Federal agencies in policy areas, such as environment, labor, and financial regulations.

Nationally, only about 15 percent of the appeals are administrative in nature—15 percent. That is the national number. In the DC Circuit, that figure is 43 percent. They have a much larger caseload of complex cases. The court also hears a variety of sensitive terrorism cases involving complicated issues, such as enemy combatants and detention policies.

Let me quote from former Chief Judge Henry Edwards, who said:

[R]eview of large, multiparty, difficult administrative appeals is the staple of judicial work in the DC Circuit. This alone distinguishes the work of the DC Circuit from the work of other circuits. It also explains why it is impossible to compare the work of the DC Circuit with other circuits by simply referring to raw data on case filings.

I mention that because there have been some here who say "the workload of the court." The workload of the court requires us to fill this vacancy.

Chief Justice Roberts noted that "about two-thirds of the cases before the DC Circuit involved the Federal Government in some civil capacity, while that figure is less than twenty-five percent nationwide." He also described the "D.C. Circuit's unique character, as a court with special responsibility to review legal challenges to the conduct of the national government." He should know. Justice Roberts came from that circuit court.

We have a person who is eminently qualified for this position, and that is Judge Wilkins. We have a need to fill this vacancy. The Senate should carry out its responsibility, and we are going to have that chance very shortly.

Let me remind my colleagues that the Senate unanimously confirmed Judge Wilkins in 2010 for his current position, and he has a distinguished lifelong record of public service. I am pleased that we have moved forward to get an up-or-down vote on this nomination. I ask the Senate and my colleagues to support confirmation of this eminently qualified judge.

Mr. LEAHY. Mr. President, tonight we will vote on the nomination of Judge Robert Wilkins to serve on the U.S. Court of Appeals for the DC Circuit. Late last week, we were finally able to invoke cloture on his nomination, after it was unjustifiably filibustered by Senate Republicans for months.

Judge Wilkins was nominated to serve on this court last June, along with two other exceptional nominees who were both confirmed late last year, Judge Patricia Millett and Judge Nina Pillard. Once Judge Wilkins is confirmed, the DC Circuit, which is often considered to be the second most important court in the Nation, will finally be operating at full strength. The American people deserve no less.

Judge Wilkins is an outstanding nominee. He was unanimously confirmed to the U.S. District Court for the District of Columbia 3 years ago. He has presided over hundreds of cases and issued significant decisions in various areas of the law, including in the fields of administrative and constitutional law. Prior to serving on the bench, he was a partner for nearly 10 years in private practice and served more than 10 years as a public defender in the District of Columbia.

During his time at the Public Defender Service, Judge Wilkins served as the lead plaintiff in a racial profiling case, which arose out of an incident in which he and three family members were stopped and detained while returning from a funeral in Chicago. This lawsuit led to landmark settlements that required systematic statewide compilation and publication of highway traffic stop-and-search data by race. These settlements inspired an Executive Order by President Clinton, legislation in the House and Senate, and legislation in at least 28 States prohibiting racial profiling or requiring data collection.

Despite the progress made in the past several decades, the struggle to diversify our Federal bench continues. When confirmed, Judge Wilkins will be only the sixth African American to have ever served on the DC Circuit.

Judge Wilkins earned the ABA's highest possible rating of unanimously "well qualified." He also has the support of the National Bar Association, the Nation's largest professional association of African American lawyers and judges, as well as several other prominent legal organizations. I ask unanimous consent to have printed in the RECORD a list of letters in support of Judge Wilkins.

I hope my fellow Senators will join me today to confirm this good man to serve on this important court. Our Nation will be better off with Judge Robert Wilkins serving on the DC Circuit.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LETTERS IN SUPPORT OF THE NOMINATION OF  
JUDGE ROBERT WILKINS

1. July 31, 2013—Diverse group of 97 organizations in support of Judge Wilkins. The or-

ganizations include National Bar Association, National Conference of Women's Bar Associations, Hispanic National Bar Association, American Association for Justice, National Association of Consumer Advocates, NAACP, and National Employment Lawyers Association.

2. August 28, 2013—Joseph C. Akers, Jr., Interim Executive Director, on behalf of National Organization of Black Law Enforcement Executives (NOBLE)

3. September 10, 2013—Benjamin F. Wilson, Managing Principal, Beveridge & Diamond, P.C. and John E. Page, SVP, Chief Legal Officer, Golden State Foods Corp. and Immediate Past President, National Bar Association on behalf of an "ad hoc group of African American AmLaw 100 Managing Partners and Fortune 1000 General Counsel"

4. September 10, 2013—Nancy Duff Campbell and Marcia D. Greenberger, co-Presidents, on behalf of the National Women's Law Center

5. September 10, 2013—Doreen Hartwell, President, Las Vegas Chapter of the National Bar Association

6. September 18, 2013—William Martin, Washington Bar Association

7. September 27, 2013—Douglas Kendall, President, and Judith Schaeffer, Vice President, Constitutional Accountability Center

8. October 1, 2013—National Bar Association

9. October 1, 2013—Michael Madigan, Orrick, Herrington & Sutcliffe LLP

10. September 10, 2013 and October 2, 2013—Wade Henderson, President & CEO and Nancy Zirkin, Executive Vice President on behalf of The Leadership Conference on Civil and Human Rights

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHANNES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Under the previous order, the question is, Will the Senate advise and consent to the nomination of Robert Leon Wilkins of the District of Columbia to be United States Circuit Judge for the District of Columbia Circuit?

Mr. JOHANNES. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Florida (Mr. RUBIO).

The PRESIDING OFFICER (Mr. DONNELLY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 7 Ex.]

YEAS—55

Baldwin	Boxer	Coons
Baucus	Brown	Donnelly
Begich	Cantwell	Durbin
Bennet	Cardin	Feinstein
Blumenthal	Carper	Franken
Booker	Casey	Gillibrand

Hagan	Markey	Schatz
Harkin	McCaskill	Schumer
Heinrich	Menendez	Shaheen
Heitkamp	Merkley	Stabenow
Hirono	Mikulski	Tester
Johnson (SD)	Murphy	Udall (CO)
Kaine	Murray	Udall (NM)
King	Nelson	Warner
Klobuchar	Pryor	Warren
Landrieu	Reed	Whitehouse
Leahy	Reid	Wyden
Levin	Rockefeller	
Manchin	Sanders	

NAYS—43

Alexander	Fischer	Moran
Ayotte	Flake	Murkowski
Barrasso	Graham	Paul
Blunt	Grassley	Portman
Boozman	Hatch	Risch
Burr	Heller	Roberts
Coats	Hoeben	Scott
Coburn	Inhofe	Sessions
Cochran	Isakson	Shelby
Collins	Johanns	Thune
Corker	Johnson (WI)	Toomey
Cornyn	Kirk	Vitter
Crapo	Lee	Wicker
Cruz	McCain	
Enzi	McConnell	

NOT VOTING—2

Chambliss Rubio

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. REID. I ask unanimous consent that the motion to reconsider be considered made and laid on the table, with no intervening action or debate, and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

# LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

## UNEMPLOYMENT COMPENSATION

Mr. REID. Mr. President, there is a lot of work going on around the Capitol this evening, and tomorrow morning we will see if we can figure out a way to move forward to help 1.4 million people who are unemployed to extend their unemployment benefits to them. It is something we need very much, and we will see if we can move forward.

The PRESIDING OFFICER. The Senator from Rhode Island.

## ORDER OF PROCEDURE

Mr. REED. Mr. President, I ask unanimous consent that at the conclusion of my brief remarks, Senator LEE be recognized, and then after Senator LEE that Senator HARKIN be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, as the leader indicated, we are working to develop a response to the 1.3 million Americans who on December 28 lost their unemployment extended benefits. Since that time, the number has increased. About 70,000 Americans a week are losing their unemployment insurance benefits. This number is now approaching roughly 1.5 million Americans and will approach a significantly